

Tennessee Valley Authority (TVA)
Procedure for Handling Complaints of Discrimination for Engaging in Protected
Activities Against TVA Contractors and Their Subcontractors

Pursuant to the Employee Protected Activities provision of the contract, the following procedure shall be followed by TVA contractors and their subcontractors with respect to any employee allegation of discrimination for engaging in protected activity with respect to work under the contract, including all complaints under Section 211 of the Energy Reorganization Act of 1974. Pursuant to the flow-down requirement of the contract, subcontractors must comply with this procedure to the same extent as the prime contractor. The term “contractor” shall refer to TVA contractors and their subcontractors. Contractor shall aggressively pursue any employee allegation of discrimination for engaging in protected activity with respect to work under the contract.

I. Notification of TVA

- A. What: (1) Any allegation of discrimination, retaliation, intimidation, or harassment because of engaging in protected activity with respect to work under the contract received by contractor management (including Employee Concerns programs) from a contractor employee or the Nuclear Regulatory Commission (NRC); (2) contractor’s receipt of notice of the filing of a Section 211 complaint with respect to work under the contract.
- B. Who: Contractor must notify TVA by providing notice to the Contract Officer and to (1) TVA Concerns Resolution Staff (CRS) site representative of allegations under I.A.(1); or (2) TVA Office of General Counsel (OGC) of Section 211 complaints under I.A.(2).
- C. When: Contractor must provide notice within two working days of the earlier of contractor’s receipt of an allegation (I.A.(1)) or the notice of the filing of a Section 211 complaint (I.A.(2)).
- D. How: Contractor must provide notice in writing, with a copy of the allegation and/or the Section 211 complaint.

II. Legal Representation

- A. When: Upon receipt of notice of the filing of a Section 211 complaint, contractor shall, at its expense, promptly consult/retain legal counsel.
- B. Who: Counsel must have experience with Section 211 proceedings and familiarity with NRC proceedings under 10 C.F.R. § 50.7.
- C. Approval: Contractor shall consult with and obtain approval by TVA OGC prior to retention of counsel for handling Section 211 proceedings.

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III. Investigation

- A. Contractor shall immediately investigate all allegations of discrimination and Section 211 complaints. Contractor shall provide TVA OGC with a copy of its investigative report on all Section 211 complaints and shall provide TVA CRS with a copy of its investigative report on all other allegations of discrimination.
- B. Contractor shall cooperate fully with any TVA Office of the Inspector General investigation.
- C. Contractor shall cooperate fully with any TVA OGC investigation or inquiry.
- D. With respect to proceedings under Section 211, contractor shall cooperate fully with any investigation by the Occupational Safety and Health Administration (OSHA).
- E. To the extent consistent with the contractor's legal position in a Section 211 proceeding, contractor shall, at the request of a contractor employee and consistent with OSHA procedures, provide representation and be present when an employee is interviewed by OSHA.
- F. TVA considers that the contractor's provision of information to TVA pursuant to the terms of the contract and this procedure is not a waiver of attorney client privilege or attorney work product protection, and the contractor may claim such privilege or protection as appropriate for such information vis-à-vis third parties.

IV. Response to OSHA in Section 211 proceedings

- A. Contractor shall provide OSHA with a timely response to any Section 211 complaint.
- B. In proceedings in which TVA or TVA employees are charged with involvement, contractor shall cooperate fully with TVA in TVA OGC's representation of TVA or any TVA employee.

V. Proceedings before the Department of Labor Office of Administrative Law Judges (OALJ) and Administrative Review Board (ARB) in Section 211 proceedings

- A. Counsel for contractor shall promptly provide TVA OGC with copies of any substantive or dispositive motions, trial briefs, exhibit and/or witness lists.
- B. Counsel for contractor shall periodically provide TVA OGC with the schedule of any proceedings.

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- C. Counsel for contractor shall consult with TVA OGC before undertaking any formal discovery from TVA and shall consult with TVA OGC regarding the need for testimony from any TVA employee.
- D. Counsel for contractor shall cooperate fully with TVA OGC in preparing any TVA employee to testify.
- E. Counsel for contractor shall make efforts to ensure the confidentiality of any document so designated by TVA.
- F. Counsel for contractor shall immediately notify TVA OGC of any decision by an ALJ or the ARB in the proceeding.

VI. Settlements

Contractor shall immediately inform TVA OGC of any settlement of any complaint of discrimination under Section 211. Any such settlement shall comply with Section 211, 10 C.F.R. § 50.7, and the Employee Protected Activities provision of the contract.

VII. Judicial Review of Section 211 proceedings

Counsel for contractor shall immediately provide TVA OGC with a copy of any petition for judicial review that may be filed and provide TVA OGC with a copy of any briefs that are filed in such proceedings.

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